

Motion granted. This matter is hereby STAYED pending resolution of Sixth Circuit Court of Appeals 20-4252. The pending motions herein are denied without prejudice, subject to refiling or renewal following conclusion of the appeal.

/s/ John R. Adams

U.S. District Judge

1/15/2021

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO**

MATTHEW DICKSON, on behalf of	:	
himself and others similarly situated,	:	Case No. 5:18-cv-182
	:	
Plaintiff,	:	Judge Adams
	:	
v.	:	Magistrate Judge Henderson
	:	
DIRECT ENERGY, LP, et al.,	:	
	:	
Defendants.	:	

**UNOPPOSED MOTION FOR ENTRY OF STAY PENDING
RULING OF SIXTH CIRCUIT**

Plaintiff Matthew Dickson (“Plaintiff” or “Mr. Dickson”) without opposition from defendants Direct Energy, LP (“Direct Energy”), and Silverman Enterprises, LLC (“Silverman”) (collectively, “Participating Defendants”), moves the Court for a stay of this action until fourteen days after a ruling by the Sixth Circuit Court of Appeals in the pending appeal styled *Roberta Lindenbaum v. Realgy, LLC, et al.*, Sixth Circuit Court of Appeals 20-4252 (“*Lindenbaum Appeal*”)¹ As is set forth below, the resolution of the *Lindenbaum Appeal* will resolve a central challenge by Defendants that during the period of 2015 to 2020, the robocall restriction in 47 U.S.C. § 227(b)(1)(A)(iii) was unconstitutional at the time of the alleged violations.

On November 16, 2020, Defendant Direct Energy, LP moved to dismiss Plaintiff’s claims, relying in large part on an opinion by Chief Judge Patricia Gaughan in *Lindenbaum v. Realgy, LLC*, --- F. Supp. 3d ---, 2020 WL 6361915 at *7 (N.D. Ohio Oct. 29, 2020), which held “[b]ecause the statute at issue [the TCPA’s robocall restriction] was unconstitutional at the time

¹ Defendant Total Marketing Concepts, Inc. (“TMC”) does not have counsel and has not participated in the action since the withdrawal of its counsel on July 24, 2019.